South Coast Area Office 200 Oceangate, Suite 1000 Long Beach, CA 90802-4302

(562) 590-5071

CALIFORNIA COASTAL COMMISSION

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05/26/2016
11/22/2016
M. Alvarado-LB
09/15/2016
10/06/2016

STAFF REPORT: CONSENT CALENDAR

Application No.:	5-16-0066
Applicant:	Hospitality Industry Management Group
Agent:	Russell Barnard and Cari Howe
Location:	256 Santa Monica Pier, Santa Monica, Los Angeles County
Project Description:	Remodel and addition to existing 5,802 sq. ft. restaurant/nightclub (Rusty's Surf Ranch) with decks/patios totaling an additional 1,651 sq. ft. The proposed net increase in total gross area is 259 sq. ft. The scope of work includes the remodel of 647 sq. ft. south patio enclosure and decking; an approximately 731 sq. ft. reduction in the second floor; construction of a 382 sq. ft. north second floor deck and a 455 sq. ft. roof deck; interior remodel and reconfiguration of the existing restaurant; and exterior improvements to the façade including the replacement of existing signage and marquee. The proposed project will result in an approximately 1,766 sq. ft. increase in public service area. No change to the existing building footprint is proposed.
Staff Recommendation:	Approval with conditions

SUMMARY OF STAFF RECOMMENDATION

The proposed project is an improvement to an existing restaurant which changes the intensification of the use located on visitor serving public pier. The proposed project raises issues regarding impacts to public access. However, to help minimize significant impacts to public access and to mitigate for an increase in parking demand, the applicant is proposing a parking management plan.

The proposed development has been conditioned to assure that the proposed project is consistent with the Chapter 3 policies of the Coastal Act. The conditions are: 1) parking management program; 2) future improvements; and 3) permit compliance.

Staff is recommending <u>APPROVAL</u> of the proposed coastal development permit as conditioned.

Section 30600(c) of the Coastal Act provides for the issuance of coastal development permits directly by the Commission in regions where the local government having jurisdiction does not have a certified Local Coastal Program. The City of Santa Monica only has a certified Land Use Plan and has not exercised the options provided in 30600(b) or 30600.5 to issue its own permits. Therefore, the Coastal Commission is the permit issuing entity and the standard of review is Chapter 3 of the Coastal Act. The certified Land Use Plan may be used for guidance.

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APPENDICES

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EXHIBITS

Exhibit 1 – Project Location Exhibit 2 – Floor Plans Exhibit 3 – Elevations

I. MOTION AND RESOLUTION

Motion:

I move that the Commission **approve** the coastal development permit applications included on the consent calendar in accordance with the staff recommendations.

Staff recommends a <u>YES</u> vote. Passage of this motion will result in approval of all of the permits included on the consent calendar. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS:

This permit is granted subject to the following standard conditions:

- 1. **Notice of Receipt and Acknowledgment**. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
- 2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
- 3. **Interpretation.** Any questions of intent of interpretation of any condition will be resolved by the Executive Director or the Commission.
- 4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS:

This permit is granted subject to the following special conditions:

1. Transportation Demand Management Program.

- A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall provide for review and approval by the Executive Director, a parking, carpool, and transit incentive program as follows:
 - (1) The applicant shall actively encourage employee participation in a Transportation Ride Sharing Program.
 - (2) A public transit fare reimbursement program shall be implemented as proposed by the applicants. The system shall be in effect for at least a 30-year period. The applicant shall provide for partial or full reimbursement to 100% of the employees of the development for public transit fare to and from work. Posters, brochures and registration materials of the program shall be available to employees at all times. Employees shall be informed of the program upon orientation and annually thereafter.
 - (3) The applicant shall actively encourage employee participation in a Transportation Ride Sharing Program.
 - (4) The applicant shall implement a publicity program, the contents of which is subject to the review and approval of the Executive Director, that indicates how the future occupants of the development will be made aware of the provisions of this special condition. The publicity program shall be implemented during the first month of occupancy of the new development.
- B. The permittee shall undertake the development in accordance with the approved program. Any proposed changes to the approved program shall be reported to the Executive Director. No changes to the program shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.
- 2. Future Development. This permit is only for the development described in Coastal Development Permit No. 5-16-0066. Pursuant to Title 14 California Code of Regulations Section 13253(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(a) shall not apply to the development governed by Coastal Development Permit No. 5-16-0066. Accordingly, any future improvements to the restaurant authorized by this Coastal Development Permit No. 5-16-0066, including but not limited to repair and maintenance identified as requiring a permit in Public Resources Section 30610(d) and Title 14 California Code of Regulations Sections 13252(a)-(b), shall require an amendment to Permit No. 5-16-0066 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

3. Storage of Construction Materials, Mechanized Equipment and Removal of Construction Debris

The permittee shall comply with the following construction-related requirements:

- (a) No demolition or construction materials, debris, or waste shall be placed or stored where it may enter sensitive habitat, receiving waters or a storm drain, or be subject to wave, wind, rain, or tidal erosion and dispersion.
- (b) No demolition or construction equipment, materials, or activity shall be placed in or occur in any location that would result in impacts to environmentally sensitive habitat areas, streams, wetlands or their buffers.
- (c) Any and all debris resulting from demolition or construction activities shall be removed from the project site within 24 hours of completion of the project.
- (d) Demolition or construction debris and sediment shall be removed from work areas each day that demolition or construction occurs to prevent the accumulation of sediment and other debris that may be discharged into coastal waters.
- (e) All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day.
- (f) The applicant(s) shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction.
- (g) Debris shall be disposed of at a legal disposal site or recycled at a recycling facility. If the disposal site is located in the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place unless the Executive Director determines that no amendment or new permit is legally required.
- (h) All stock piles and construction materials shall be covered, enclosed on all sides, shall be located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil.
- (i) Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems.
- (j) The discharge of any hazardous materials into any receiving waters shall be prohibited.
- (k) Spill prevention and control measures shall be implemented to ensure the proper handling and storage of petroleum products and other construction materials. Measures shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. The area shall be located as far away from the receiving waters and storm drain inlets as possible.
- (1) Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of demolition or construction-related

materials, and to contain sediment or contaminants associated with demolition or construction activity, shall be implemented prior to the on-set of such activity.

- (m)All BMPs shall be maintained in a functional condition throughout the duration of construction activity.
- **4. Permit Compliance**. All development must occur in strict compliance with the proposal as set forth in the application, subject to any special conditions imposed herein. Any deviation from the approved plans must be submitted for review by the Executive Director to determine whether an amendment to this Coastal Development Permit No. 5-16-0066 is necessary pursuant to the requirements of the Coastal Act and the California Code of Regulations.

IV. FINDINGS AND DECLARATIONS:

A. PROJECT DESCRIPTION & LOCATION

The applicant is proposing to remodel and expand an existing 5,802 sq. ft. restaurant/nightclub (Rusty's Surf Ranch) with 1,651 sq. ft. of decks/patios located on the Santa Monica Pier. The proposed net increase in total gross area is 256 sq. ft. The scope of work includes the reconstruction of 647 sq. ft. south patio enclosure with no increase in square footage; an approximately 731 sq. ft. reduction in the second floor; construction of a 382 sq. ft. north second floor deck and a 455 sq. ft. roof deck; interior remodel and reconfiguration of the existing restaurant; and exterior improvements to the façade including the replacement of existing signage and marquee (**Exhibit 2 & 3**). The proposed project will result in an approximately 1,766 sq. ft. increase in public service area. No change to the existing building footprint is proposed.

The subject site (Rusty's Surf Ranch) is located on the Santa Monica Pier ("Pier") within the City of Santa Monica ("City"), Los Angeles County (**Exhibit 1**). It is located in the middle tenant space of a building consisting of two other restaurants: The Albright and Ristorante Al Mare. To the northwest is a public beach parking lot (1550 Pacific Coast Highway) directly adjacent to the Pier. On the Pier to the southwest is the Santa Monica Police sub-station and a plaza area, with a number of food service, retail and recreational uses, including Pacific Park, an amusement park, and a fishing pier and harbor office at the western end of the Pier. The National Historic Landmark Looff Hippodrome (Carousel) building is located to the northeast.

The Pier is owned and operated by City. The applicant, Hospitality Industry Management Group, has a signed lease with the City to operate the restaurant/nightclub. In 2014, the Commission granted the applicant a De Minimis Waiver No. 5-14-1746-W for the reconstruction of the north first floor patio enclosure with no increase in square footage, relocation of the north entry way, construction of a 394 sq. ft. north second floor balcony, and new signage for the existing restaurant. The currently proposed development has received an Approval in Concept from the City of Santa Monica (Dated 01/20/2016) and is consistent with the RVC (Residential Visitor Commercial) zoning designation and the surrounding land uses.

Public Access and Parking

The Santa Monica Pier ("Pier") is located at the foot of Colorado Avenue. The Pier is a regional coastal visitor-serving recreational resource. According to the City of Santa Monica's certified Land Use Plan (LUP), the Pier attracts approximately 3 million visitors each year. The pier provides primarily low-cost public recreational opportunities. The piers current uses include a carousel, amusement ride area, food service establishments, retail shops, and fishing. The Pier provides pedestrian access throughout its length and along its perimeter.

The applicant is proposing improvements to an existing restaurant located on the Pier deck. The proposed project will result in an increase in public service area by 1,766 sq. ft. but a net increase in total gross area by 259 sq. ft. As proposed, the new restaurant will be sited within the same footprint.

Because of the Pier's proximity to the State beach and to public beach parking lots, development on the Pier could adversely impact public access to the beach. If the parking demand generated by new commercial development on the Pier exceeds the supply of parking that is available for the Pier, patrons of the Pier will utilize the parking that is needed to support general beachgoers, strollers, bicyclists, and joggers that depend on and use the parking that is available in the general vicinity of the Pier. Therefore, in order to determine if the proposed project is consistent with the access policies of the Coastal Act, the Commission must find that the parking demand generated by the proposed development is adequately supported by the supply of parking available for Pier use.

In early 1983, unusually severe winter storms destroyed the outer end of the Pier and seriously damaged much of the remainder. Prior to the 1983 storms that destroyed portions of the Pier, there were 79,488 square feet of development supported by 471 parking spaces on the Pier (area of development is based on the Pier Restoration Corporation's figures). In the certified LUP the Commission agreed with the City that the Pier should be allowed to be reconstructed to the level of development that existed prior to the 1983 storm with the same amount of parking that also existed in 1983. In the certified LUP the Commission found that the Pier could be allowed to be built back to the pre-1983 storm intensity as long as the 471 parking spaces that were serving the pre-1983 storm level of intensity were provided either on or off the Pier. A development cap, based on pre-storm development, was set at 79,488 square feet.

Therefore, if new development exceeds the level of intensity that existed prior to 1983, the parking demand generated by the new development beyond the 1983 level must be mitigated with additional parking, shuttle program, or other measure(s). Also, although there are approximately six (6) State beach parking lots along the beach area within a quarter mile of the Pier, including the State lot (1550 lot) which is adjacent to and north of the Pier, these lots are considered lots that are available to the general beach-going public and not for the exclusive use of the private commercial development on the City-owned Pier.

In the 1990's, the Commission granted Coastal Development Permit No. 5-92-345 for the construction of net new 59,093 sq. ft. of amusement area and Coastal Development Permit No. 5-93-052 for the construction of 17,159 sq. feet of net new restaurant area on the pier deck. Those two projects raised the Pier square footage to approximately 139,897 sq. ft., surpassing the 1983 development level by 60, 409 sq. ft. Consequently, because the pre-1983 development cap has

already been exceeded, the new parking demand generated by the proposed development must be mitigated.

Based on the Commission's general parking standard of 1 parking space per 50 sq. ft. of public service area for restaurant uses, approximately 35 parking spaces are required to accommodate the proposed approximately 1,766 sq. ft. increase in public service area. However, the applicant is not proposing any parking spaces. In addition, the City has approved a Reduced Parking Permit/Variance for the proposed project in-lieu of providing additional required parking spaces. The applicant and City reason that a "shared parking" concept is appropriate in this case, a concept that the Commission has previously used for development on the Pier.

In this case, it should be acknowledged that there exist unique circumstances due to the project site's location on a beach Pier in the City's downtown area. For example, the restaurant and surrounding businesses on the Pier arguably are uses that do not primarily function as a single destination use and rely on shared parking arrangements. This shared parking use argument is supported by the City and emphasized in the applicant's parking demand analysis, conducted by Nelson Nygaard, which was provided to staff. In addition, the shared parking concept considers the fact that in mixed-use developments, the peak parking demand does not occur simultaneously for all the various land use elements. Previously, the Commission has approved development on the Pier with the shared parking concept. For instance, in reviewing CDP Nos. 5-92-345 and 5-93-052, the Commission applied a shared use parking ratio of 1 space per 188 sq. ft. for restaurant use on the pier.

An additional circumstance is that Downtown Santa Monica is unique in that the City is constantly working on ensuring that the downtown area is transit-oriented. An example of such efforts includes the founding of an Emissions Reduction Program, in which the applicant currently participates. The City's Emission Reduction Plan makes use of the Metro Expo line stations that recently opened and of the public bike share system recently established downtown, which are within walking distance to the Pier. Additionally, in compliance with the City's Transportation Demand Management Program, the applicant has an Employee Transportation Coordinator to assist employees with transportation issues and to oversee the restaurant's Emission Reduction Plan.

To help minimize significant impacts to public access and to mitigate for an increase in parking demand, the applicant is proposing a parking management plan which involves enrolling into the following programs: Breeze Bikes Annual Employee Plan, Metro Business Transit Access Pass (BTAP), and Corporate Partner Program for Metrolink. **Special Condition 1** sets forth the details of the required parking management plan to ensure implementation.

Any future improvements to the restaurant authorized by this Coastal Development Permit No. 5-16-0066, including but not limited to repair and maintenance identified as requiring a permit, will require an amendment to Permit No. 5-16-0066 from the Commission as imposed by **Special Condition 2**. In addition, because the project site is located on a municipal pier and in proximity to coastal waters, the Commission recommends construction-related requirements and best management practices under **Special Condition 3**. The Commission imposes **Special Condition 4** to ensure permit compliance.

The Commission, therefore, finds that the proposed project, as conditioned, will not have adverse impacts to public access and will be consistent with the Commission's past permit action for Pier development and with the Chapter 3 policies of the Coastal Act and with all applicable policies of the certified LUP.

B. PUBLIC ACCESS

The proposed development will not affect the public's ability to gain access to, and/or to use the coast and nearby recreational facilities. Therefore, as proposed the development, as conditioned, conforms to Sections 30210 through 30214, Sections 30220 through 30224, and 30252 of the Coastal Act.

C. DEVELOPMENT

The development is located within an existing developed area and is compatible with the character and scale of the surrounding area. However, the proposed project raises concerns that future development of the project site potentially may result in a development which is not consistent with the Chapter 3 policies of the Coastal Act. To assure that future development is consistent with the Chapter 3 policies of the Coastal Act, the Commission finds that a future improvements special condition must be imposed. As conditioned the development conforms with the Chapter 3 policies of the Coastal Act.

D. WATER QUALITY/BIOLOGICAL ASSESSMENT

The proposed development has a potential for a discharge of polluted runoff from the project site into coastal waters. The development, as proposed and as conditioned, incorporates design features to minimize the effect of construction and post-construction activities on the marine environment. These design features include, but are not limited to, one or more of the following: the appropriate management of equipment and construction materials, reducing runoff through installation of roof drains, gutters, downspouts, and a drainage system to rain barrels. Post-construction best management practices should minimize the project's potential adverse impact on coastal waters. Therefore, the Commission finds that the proposed development, as conditioned, conforms to Sections 30230 and 30231 of the Coastal Act regarding the protection of water quality to promote the biological productivity of coastal waters and to protect human health.

E. LOCAL COASTAL PROGRAM (LCP)

Coastal Act section 30604(a) states that, prior to certification of a local coastal program ("LCP"), a coastal development permit can only be issued upon a finding that the proposed development is in conformity with Chapter 3 of the Act and that the permitted development will not prejudice the ability of the local government to prepare an LCP that is in conformity with Chapter 3. In August 1992, the Commission certified, with suggested modifications, the land use plan portion of the City

of Santa Monica's Local Coastal Program, excluding the area west of Ocean Avenue and Neilson way (Beach Overlay District). On September 15, 1992, the City of Santa Monica accepted the LUP with suggested modifications. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act and with the certified Land Use Plan for the area. Approval of the project, as conditioned, will therefore not prejudice the ability of the local government to prepare an LCP that is in conformity with the provisions of Chapter 3 of the Coastal Act.

F. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

As conditioned, there are no feasible alternatives or additional feasible mitigation measures available that would substantially lessen any significant adverse effect that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

Appendix A - Substantive File Documents

- City of Santa Monica certified Land Use Plan
- Coastal Development Permit Application No. 5-16-0066
- LOCAL APPROVALS RECEIVED: Approval in Concept; Conditional Use Permit 14-007; Reduced Parking Permit 14-002











